

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
999 18TH STREET- SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>

DOCKET NO.: CWA-08-2004-0057

| | | |
|------------------------------------|---|--------------------|
| IN THE MATTER OF: |) | |
| |) | |
| MOONLIGHT BASIN RANCH, INC. |) | |
| And MOONLIGHT BASIN RANCH |) | FINAL ORDER |
| LIMITED PARTNERSHIP |) | |
| P. O. Box 1369 |) | |
| Ennis, MT |) | |
| |) | |
| RESPONDENTS |) | |

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondents are hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondents of this Consent Agreement and Final Order.

November 9, 2004
DATE

SIGNED
Alfred C. Smith
Regional Judicial Officer

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

| | | |
|--|---|------------------------------------|
| In the Matter of: |) | |
| |) | |
| Moonlight Basin Ranch, Inc. and |) | CONSENT AGREEMENT |
| Moonlight Basin Ranch Limited Partnership |) | |
| P.O. Box 1369 |) | Docket No. CWA-08-2004-0057 |
| Ennis, MT 59729 |) | |
| |) | |
| Respondents. |) | |
| <hr style="width:50%; margin-left:0;"/> | | |

Complainant, United States Environmental Protection Agency, Region 8, and Respondents, Moonlight Basin Ranch, Inc. and Moonlight Basin Ranch Limited Partnership, by their undersigned representatives, hereby consent and agree as follows:

1. On July 29, 2004, Complainant issued a Complaint alleging violations of the Clean Water Act (CWA), 33 U.S.C. § 1251 et seq. The Complaint proposed a civil penalty for the violations alleged therein.
2. Respondents admit the jurisdictional allegations of the Complaint only and neither admit nor deny the remaining factual and legal allegations, but are agreeing to settle this matter with EPA in order to spare the time and expense of contesting such allegations.
3. Respondents waive their right to a hearing before any tribunal, to contest any issue of law or fact set forth in the Complaint.
4. This Consent Agreement, upon incorporation into a final consent order, applies to and is binding upon EPA and upon Respondents and Respondents' successors and assigns.
5. This Consent Agreement contains all terms of the settlement agreed to by the parties.

6. Respondents consent and agree that not more than 20 days after Respondents' receipt of a signed final order in this matter, Respondents shall pay a civil penalty in the amount of thirty-nine thousand five hundred dollars (\$39,500.00) by remitting a cashier's or certified check for that amount, payable to "Treasurer, United States of America," along with a copy of this Consent Agreement, to:

Mellon Bank
Regional Hearing Clerk - EPA Region 8
Lockbox 360859
Pittsburgh, PA 15251-6859

The check shall reference the name and address of Respondents and the EPA docket number of this action (CWA-08-2004-0057). A copy of the check shall be sent simultaneously to:

Regional Hearing Clerk
U.S. EPA Region 8 (8RC)
999 18th Street, Suite 300
Denver, CO 80202-2466

and

Wendy I. Silver
U.S. EPA Region 8 (8ENF-L)
999 18th Street, Suite 300
Denver, CO 80202-2466

7. Respondents further agree and consent that if Respondents fail to pay the penalty amount within 20 days of receipt of the final order, the full penalty amount proposed in the Complaint shall become due and owing by Respondents. Furthermore, interest on the penalty amount shall accrue at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. A late payment charge of twenty dollars (\$20.00) shall be imposed after the first 30 days

that the payment, or any portion thereof, is overdue, with an additional charge of ten dollars (\$10.00) imposed for each subsequent 30-day period until the payment due is made. In addition, a six percent (6%) per annum penalty shall be applied on any principal amount not paid within 90 days after receipt of the final order.

8. Nothing in this Consent Agreement shall relieve Respondents of the duty to comply with the CWA and its implementing regulations.

9. Failure by Respondents to comply with any of the terms of this Consent Agreement shall constitute a breach of the agreement and may result in referral of the matter to the Department of Justice for enforcement of this agreement and for such other relief as may be appropriate.

10. Nothing in this Consent Agreement shall be construed as a waiver by the U.S. EPA of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondents' failure to perform pursuant to the terms of this Agreement.

11. The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final consent order.

12. Each party shall bear its own costs and attorneys fees in connection with this matter.

13. This Consent Agreement, upon incorporation into a final consent order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations alleged in the Complaint.

In the Matter of Moonlight Basin Ranch, Inc. et al.

Docket No. CWA-08-2004-0057

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8,
Complainant.

Date: 10/25/04

By: David J. Janik
Michael T. Risner
Director
David J. Janik
Supervisory Enforcement Attorney
Legal Enforcement Program
Office of Enforcement, Compliance, and
Environmental Justice

Date: 10/15/04

By: SIGNED
John Wardell
Director
Montana Office

Date: 10/7/04

By: SIGNED
Wendy I. Silver
Enforcement Attorney

In the Matter of Moonlight Basin Ranch, Inc. et al.
Docket No. CWA-08-2004-0057

MOONLIGHT BASIN RANCH, INC.
Respondent.

Date: 10/4/04

By: SIGNED, VP
General Partner of MBRLP

MOONLIGHT BASIN RANCH
LIMITED PARTNERSHIP
Respondent.

Date: 10/4/04

By: SIGNED, VP
MBR Inc. General Partner

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter **MOONLIGHT BASIN RANCH, INC. and MOONLIGHT BASIN RANCH LIMITED PARTNERSHIP, DOCKET NO.: CWA-08-2004-0057** was filed with the Regional Hearing Clerk on November 9, 2004.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Wendy Silver, Enforcement Attorney, U. S. EPA – Region 8, 999 18th Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on November 9, 2004, to:

Kevin P. Germain
Environmental Compliance Officer
Moonlight Basin Ranch
P. O. Box 1369
Ennis, MT 59729

And pouch mailed to:

Honorable Spencer T. Nissen
Administrative Law Judge
Office of Administrative Law Judges
U. S. EPA, Mail Code 1900L
Arial Rios Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460

November 9, 2004

SIGNED _____

Tina Artemis
Regional Hearing Clerk

**THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE
ON NOVEMBER 9, 2004**

